

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2001 JUN 29 P 12:38

DYKENS, TIMOTHY,)
PETITIONER,)
)
v.) CIVIL ACTION NO.04-10544-NMG
)
ALLEN, PETER,)
RESPONDENT)
)

U.S. DISTRICT COURT
DISTRICT OF MASS.

MOTION TO CORRECT THE RECORD

STATEMENT OF THE FACTS

On March 16, 2004, Timothy George Dykens, (Petitioner) filed his Federal Habeas Corpus. Motion #1^[1] On December 12, 2004, Peter Allen (Respondent) filed his answer to Petitioner's Complaint. Motion #5, and part of the Respondent's argument is that one of the Petitioner's issues was unexhausted Motion #6. Petitioner promptly filed an opposition on January 5, 2005, Motion #9.

The Court Nathaniel M. Gordon the Judge, entered an order denying the Respondents motion to dismiss, and issued an order that "This Case will remain open for 30 days pending Petitioner's action with respect to his unexhausted claims." Motion #11, entered 6/17/05

1/Docket entries are attached
hereto as Exhibit "A"

After about 45 days, on August 3, 2005, The Court Gordon, Judge, entered an order allowing the Respondent's motion to dismiss^[2] see Motion #17 entered 8/3/05

The Petitioner timely filed for a Motion For Reconsideration, and brought to the Court's attention that " He never received the Court's june 17, 2005, order to address the unexhausted claims, therefore he never took action, and requested reconsideration to allow him to do so. Motion #15 & 16 filed on 9/6/05.

The Court adopted the Petitioner's petition and thus allowed Petitioner's Motion For Reconsideration, to the extent that "Petitioner may only proceed Solely with respects to his exhausted claims" Motion #18, entered 12/8/05

ARGUMENT

The Petitioner comes forward to address this Court to Correct the record that has been mistakenly entered erroneously. The Court Forwarded to the Petitioner a response that his case was closed since 8/03/05. But this is incorrect, Because as demonstrated within this Statement of Facts and attached Docket Entries, it makes it clear that a matter of a minor error was committed on behalf of this Court.

2/ this is what this court has adopted in its language stating "this case was closed on 8/03/05 " Motion # 29 that is incorrect

CONCLUSION

Wherefore Petitioner request that this Court correct the record and allow Petitioner's case to proceed on it's regular course. And to allow his Memorandum, and Traverse to stand as it is meant to before the Court.

Dated: 20 APRIL 2007

RESPECTFULLY SUBMITTED

Timothy Dykens

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